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9 CITY AND COUNTY OF SAN FRANCISCO, et al.
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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 FRANCIS KELLY, DENNIS KRUGER, ROBERT P.) Case No. C 05-1287 SI
15 ANDERSON, GEORGE O. BULLWINKEL,)
16 STEPHEN C. CHRISTENSEN, FRED J. FEGAN,)
17 GERALD L. GREY, THOMAS E. KAZARIAN,)
18 FRANK M. KUNST, GARY J. LAVAYSSE,)
19 PATRICK H. McLAUGHLIN, DANIEL M.)
20 O'DONNELL, ROBERT G. OLLER, HENRY L.)
21 RANEY, GEORGE J. RIPOLL, PATRICIA)
22 CAULFIELD AND HORTENCE PUCCETTI,)
23 Individually and on Behalf of Others Similarly)
24 Situated,)
25 Plaintiffs,)
26 v.)
27)
28 CITY AND COUNTY OF SAN FRANCISCO; SAN)
29 FRANCISCO FIRE DEPARTMENT; EDWARD M.)
30 HARRINGTON, in his Official Capacity as Controller)
31 of the City and County of San Francisco; PHILIP A.)
32 GINSBURG in his Official Capacity as Human)
33 Resources Director of the City and County of San)
34 Francisco; and DOES ONE though FIFTY, inclusive,)
35 Defendants.)
36 _____)
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1 On October 13, 2005, the parties filed a Stipulation for Notice to Potential Opt-in Plaintiffs
 2 of Right to Participate in Fair Labor Standards Act Lawsuit along with a proposed Notice to Potential
 3 Opt-in Plaintiffs of Right to Participate in Fair Labor Standards Act Lawsuit (Exhibit 1 to the
 4 Stipulation).

5 Having reviewed the stipulation and the proposed notice and good cause appearing therefor,
 6 the Court hereby approves the parties' Stipulation for Notice to Potential Opt-in Plaintiffs of Right
 7 to Participate in Fair Labor Standards Act Lawsuit. The Court also hereby approves, as to form and
 8 content, the proposed Notice to Potential Opt-in Plaintiffs of Right to Participate in Fair Labor
 9 Standards Act Lawsuit (Exhibit 1 to the Stipulation). The Notice advises the potential opt-in plaintiffs
 10 of the pendency of the action and of the opportunity to opt-in. The Notice accurately describes
 11 plaintiffs' legal claims. The Notice advises the potential opt-in plaintiffs that the City is defending
 12 against the claims. The Notice provides clear instructions on how to opt in, and advises that
 13 participation is not required. And, the Notice informs the potential opt-in plaintiffs that this Court has
 14 not made any determination regarding the merits of the plaintiffs' claims. The Court authorizes the
 15 Fair Labor Standards Act claim (First Cause of Action) to proceed as a collective action and authorizes
 16 the mailing of the stipulated Notice to Potential Opt-in Plaintiffs of Right to Participate in Fair Labor
 17 Standards Act Lawsuit.

18 In order to facilitate the mailing of the Notice, the Court hereby orders the San Francisco
 19 Employees' Retirement System, an agency of the City and County of San Francisco, to provide
 20 plaintiffs with a list of the names and last known addresses, as shown in the records of the Retirement
 21 System, of all uniformed employees of the San Francisco Fire Department ("SFFD") who retired on
 22 or after January 1, 2002. The San Francisco Employees' Retirement System shall e-mail said list, in
 23 a computer-readable format ("Word" and "Excel"), to plaintiffs' counsel within seven (7) calendar
 24 days of the date of entry of this Order.

25 The Court also orders the City to provide plaintiffs with a list of the names and last known
 26 addresses, as shown in the personnel files or other records of the SFFD, of each former uniformed
 27 employee of the SFFD who, on or after January 1, 2002, separated from employment with the SFFD
 28 (by resignation or in any manner other than by retirement) and received a lump sum payment upon

1 separation from employment for any unused compensatory time off in lieu of overtime. The City shall
2 e-mail said list, in a computer-readable format ("Word" and "Excel"), to plaintiffs' counsel within
3 seven (7) calendar days of the date of entry of this Order.

4 Within seven (7) calendar days after receipt of the lists of names and addresses described
5 above, plaintiffs shall send by first class mail the Notice to Potential Opt-In Plaintiffs of Right to
6 Participate in Fair Labor Standards Act Lawsuit to each person whose name appears on said lists, with
7 the exception of the named plaintiffs. Plaintiffs shall provide defendants' counsel with a proof of
8 service.

9 The lists described above shall be used only for purposes related to this litigation.

10 In the event that the Court certifies a class action in this lawsuit under Federal Rule of Civil
11 Procedure 23, the class action notice shall contain a paragraph explaining that the class action aspect
12 of the case is different from the Fair Labor Standards Act aspect of the case and that the class action
13 notice is different from the notice to potential opt-in plaintiffs under the FLSA.

14 The Court hereby schedules a further Case Management Conference for Friday, February 24, 2006
15 _____, 2006 (approximately thirty (30) days after January 24, 2006) at 2:00 p.m.

16 IT IS SO ORDERED.

17 Dated: _____

